

December 27, 2000

BULLETIN NO.: 2000-17

TO: All Health Insurers, Hospital Service Corporations, Medical Service Corporations, Health Service Corporations, Health Maintenance Organizations, and Other Interested Parties

FROM: Karen L. Suter, Commissioner, Department of Banking and Insurance, Christine Grant, Commissioner, Department of Health and Senior Services

RE: Organized Delivery Systems

N.J.S.A. 17:48H-1 et. seq., enacted January 18, 2000, provides for the licensure of "organized delivery systems" ("ODS") that assume "financial risk," and for the certification of those "ODS's" that do not assume "financial risk", as those terms are defined in N.J.S.A. 17:48H-1. For purposes of this Bulletin, a "financial risk" shall exist, if, under the agreement between the ODS and the carrier, the financial obligations of the ODS for payment of benefits or for providing treatment or services does or potentially may exceed any payments (capitation or otherwise) that may be received from the carrier. A "financial obligation" shall include attendant administrative costs related to providing treatment or services.

Generally, an ODS is an entity that contracts with a carrier, which includes insurers, hospital service corporations, medical service corporations, health service corporations and health maintenance organizations, authorized to transact business in this State, to provide the comprehensive services or benefits under the carrier's benefits plan on behalf of the carrier, or to provide limited health care services that the carrier elects to subcontract as a separate category of benefits or services apart from its benefits under its comprehensive benefits plan.

Pursuant to N.J.S.A. 17:48H-2, beginning one year after enactment of the Act, no person or entity may operate as an ODS without obtaining either certification or, in the case of an ODS which receives compensation on a basis that entails the assumption of financial risk, a license in this State. Pursuant to N.J.S.A. 17:48H-3 and 17:48H-11, an ODS may continue to operate for a period up to 12 months after the submission of the application to the Department of Banking and Insurance ("DOBI") and Department of Health and Senior Services ("DHSS") for either certification or licensure, as appropriate.

Currently, DOBI and DHSS are separately developing rules for proposal to establish all the requirements for certification or licensure, including net worth, deposit, network adequacy, utilization management, etc., as mandated by the statute. In order to begin the process, however, the Departments have developed a preliminary application and instructions (attached hereto). A copy of the preliminary application may also be downloaded from the DOBI's website: www.njdobi.org. All carriers should review their agreements to determine whether any subcontractor is an ODS, and, if so, the carrier should alert the entity to this process and to file a

preliminary application for licensure or certification, as appropriate, at the addresses set forth in the "Checklist of Documents Required".

It should be noted that no license or certification will be issued until such time as final rules are promulgated and all information and other standards related thereto which are established pursuant to the Act are met. However, as noted above, the filing of a complete preliminary application will satisfy the requirements of N.J.S.A. 17:48H-3 or 17:48H-11 and permit an entity to operate up to 12 months during the pendency of its application for licensure or certification. The Departments urge those who may be required to become licensed or certified to file a notice of intent to file a preliminary application for licensure or certification, as applicable, on or before January 17, 2001 so as to continue to operate in compliance with the law. The filing of a notice of intent to file an application for certification or licensure, as applicable, shall be deemed to fulfill the filing requirement, provided that a completed preliminary application is filed with DOBI or DHSS, as appropriate, within 30 days of the date of this bulletin. The Departments note that the filing of a preliminary application shall not be construed as an admission by the applicant that it is an ODS subject to licensure or certification under N.J.S.A. 17:48H-1 et seq.